

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) (SN) ECF Case
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This document relates to:

Burnett, et al. v. Al Baraka Inv. & Dev. Corp., et al., No. 03-cv-09849
Estate of John P. O'Neill, Sr., et al. v. Kingdom of Saudi Arabia, et al., No. 04-cv-01922
Estate of John P. O'Neill, Sr., et al. v. Republic of the Sudan, et al., No. 18-cv-12114
Estate of John P. O'Neill, Sr., et al. v. The Republic of Iraq, et al., 04-cv-1076
Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977
Aronow, et al. v. Republic of Sudan, No. 20-cv-07733
Betru, et al. v. The Republic of Sudan, No. 20-cv-10615
Parker, et al. v. The Republic of the Sudan, No. 20-cv-10657
Nolan, et al. v. The Republic of the Sudan, No. 20-cv-10720
Jessica DeRubbio, et al. v. Islamic Republic of Iran, et al., No. 18-cv-05306
Horace Morris, et al. v. Islamic Republic of Iran, et al., No. 18-cv-05321
August Bernaerts, et al. v. Islamic Republic of Iran, et al., No. 19-cv-11865
Justin Strauss, et al. v. Islamic Republic of Iran, et al., No. 22-cv-10823
Celestine Kone, et al. v. Islamic Republic of Iran, et al., No. 23-cv-05790
Danielle Kelly, et al. v. Islamic Republic of Iran, et al., No. 23-cv-07283
Gladys Lopez, et al. v. Islamic Republic of Iran, et al., No. 23-cv-08305
Clarke, et al. v. The Republic of the Sudan, No. 23-cv-07736
Adler, et al. v. Republic of Sudan, No. 23-cv-07164
DiNardo, et al. v. Republic of the Sudan, No. 23-cv-07328
Perry, et al. v. Republic of the Sudan, No. 23-cv-07391
Estate of Daniel L. Maher, et al. v. Republic of the Sudan, No. 23-cv-02846

NOTICE OF CONDITIONAL CROSS-APPEAL

NOTICE is hereby given that, in the event the United States Court of Appeals for the Second Circuit finds that it possesses jurisdiction as to the Republic of Sudan's interlocutory appeal (ECF No. 9336) from the August 10, 2023 Memorandum Decision and Order of the United States District Court for the Southern District of New York, (ECF No. 9278), granting in part and denying in part the Republic of Sudan's Motion to Dismiss ("the August 10, 2023 Memorandum Decision and Order"), Plaintiffs in the above-captioned actions hereby cross-

appeal to the United States Court of Appeals for the Second Circuit from the August 10, 2023 Memorandum Decision and Order.

This is a conditional cross-appeal, filed solely to preserve Plaintiffs' appellate rights in light of the Republic of Sudan's Notice of Appeal. Plaintiffs submit that the Second Circuit lacks jurisdiction over the Republic of Sudan's interlocutory appeal. *See* 28 U.S.C §1605A(f) (“[i]n an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title”). If the Second Circuit nevertheless concludes that it does have appellate jurisdiction, then Plaintiffs intend to cross-appeal from limited rulings in the August 10, 2023 Memorandum Decision and Order.

Respectfully submitted,

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Dated: September 21, 2023

CERTIFICATE OF SERVICE

I, Robert T. Haefele, do hereby certify that I am over 18 years of age, am not a party to the instant action, and that a true and correct copy of this Notice of Conditional Cross-Appeal was served on all counsel of record via the Court's Electronic Case Filing System on this 21st day of September, 2023.

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